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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/825,516	04/15/2004	James McGarry	061026-0376	8159
9629	7590	04/30/2007		
MORGAN LEWIS & BOCKIUS LLP 1111 PENNSYLVANIA AVENUE NW WASHINGTON, DC 20004			EXAMINER CLEMENT, MICHELLE RENEE	
			ART UNIT	PAPER NUMBER
			3641	
			MAIL DATE	DELIVERY MODE
			04/30/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/825,516

Applicant(s)

MCGARRY, JAMES

Examiner

Michelle (Shelley) Clement

Art Unit

3641

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 05 February 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-19 and 22-26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 7, 10, 11 and 17 is/are allowed.
- 6) ☒ Claim(s) 1-6, 8, 9, 12-16, 18, 19, 22-25 is/are rejected.
- 7) ☒ Claim(s) 26 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Notice of Informal Patent Application
- ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments filed 2/5/07 have been fully considered but they are not persuasive. Applicant contends that Lenkarski does not disclose a magazine disconnect that engages and blocks movement of the firing pin, because the magazine disconnect of Lenkarski blocks movement of the sear which blocks movement of the firing pin. This is not persuasive because the magazine disconnect ultimately does block movement of the firing pin, the fact that Lenkarski discloses additional structure i.e. the sear or that the movement of the firing pin is blocked via the sear is irrelevant in that applicant's claims are of the open type, "comprising", which allows additional structure.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-6, 8, 9, 12-16, 18, 19 and 22-25 are rejected under 35 U.S.C. 102(b) as being anticipated by Lenkarski et al. (US Patent # 5,438,784). Lenkarski et al. discloses an autoloading pistol with a firing pin blocking magazine disconnect mechanism comprising a frame that holds a magazine, a housing carried by the frame and defining a chamber to hold a cartridge, a firing pin (reference 82) disposed in the housing and movable toward the chamber, a blocking member (reference 87) movable into and out of engagement with the firing pin and an actuator (Seen generally at Figure 2, references 20, 38, 32, 33, 40, 30, 54, 50, 27 and columns 3 and 4 lines 25-

Art Unit: 3641

66 and 1-19 generally disclose elements comprising the actuator) that disengages the blocking member from the firing pin when the magazine is inserted in the pistol and engages the blocking member with the firing pin when the magazine is removed from the pistol so that the firing pin is prevented from moving toward and contacting a cartridge in the chamber, the magazine releasably contacts and moves the actuator in a first direction to disengage the blocking member from the firing pin, the magazine breaks contact with and moves the actuator in a second direction to engage the blocking member with the firing pin. The blocking member is vertically movable from a first position in which the blocking member does not engage the firing pin to a second position in which the blocking member engages the firing pin. Further comprising a biasing member (reference 54) to bias the blocking member into the second position. A blocking member actuator is pivotally mounted to the frame and is a lever having one end pivotally mounted to the frame and an opposite free end to operably contact the blocking member. The housing is a reciprocating slide and the blocking member is disposed in the slide. The frame defines an open cavity. The actuator comprises a body and angularly protruding lever arm configured to (or having the ability to) contact the blocking member. The blocking member actuator maintains contact with the blocking member in the first and second positions. The blocking member is movable in a vertical direction. The actuator is vertically movable between an up position with the magazine inserted in the pistol and a down position with the magazine removed from the pistol.

***Allowable Subject Matter***

4. Claims 7, 10, 11, 17 are allowed.

Art Unit: 3641

5. Claim 26 is objected to as being dependent upon a rejected base claim, but would possibly be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michelle (Shelley) Clement whose telephone number is 571.272.6884. The examiner can normally be reached on Monday thru Thursday 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Carone can be reached on 571.272.6873. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3641

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Michelle (Shelley) Clement  
Primary Examiner  
Art Unit 3641